

### SHORT SALE SUMMARY FOR BUYERS

1 The following Summary is intended to briefly address some of the practical and legal issues which may arise in a Short Sale transaction. This  
 2 Summary is not intended to be a complete explanation of Short Sales, does not constitute legal advice, and should not be relied upon in lieu of  
 3 securing competent legal, tax, and consumer credit advice.

4 **1. DEFINITION:** The term "Short Sale" is used to refer to those real estate transactions in which the agreed-upon purchase price is insufficient to  
 5 pay off all of the secured debt on the property (such as mortgages, trust deeds, state/federal income taxes, liens, property taxes or other local  
 6 assessments) including the costs of closing, such as escrow and recording fees, title insurance premiums, real estate commissions, etc. If the  
 7 Seller is in bankruptcy, a trustee for the Seller's creditors will take control of the sale. In most Short Sales, the Seller must secure an agreement  
 8 from one or more third-party creditors to accept from the closing proceeds something less than the remaining amount of the debt due them. In other  
 9 words, the debt is "shorted" or reduced. The one thing common to all Short Sales is the final decision on price and terms of the transaction, as well  
 10 as the identity of the Buyer, will be in the control of third parties, usually creditors, whose consent to the transaction is required in order for the  
 11 Seller to convey clear title to a Buyer.

12 **2. TRANSACTION CONTINGENT ON THIRD-PARTY CREDITOR CONSENT:** Since a Short Sale requires approval from one or more creditors  
 13 who are not parties to the pending real estate sale transaction, the Seller's agreement to sell must be made subject to (or "contingent upon") third-  
 14 party consent. This generally means that if the Seller is unable to secure the necessary consent (for example, because the creditor refuses to give  
 15 consent or it cannot be obtained by the closing date), the transaction fails, and all earnest money is to be promptly refunded to the Buyer.

16 **3. TRANSACTIONAL CHANGES REQUIRED BY THIRD-PARTY CREDITORS:** In Short Sales, it is not unusual for a creditor whose consent is  
 17 sought to insist other creditors who would be paid from the closing also share some of the cost. They may also insist the sale price be increased or  
 18 require removal of provisions for the Seller to pay certain repairs, etc. Some creditors may require an appraisal or independent broker's price  
 19 opinion ("BPO") of the property before making any decision. Thus, in Short Sale transactions, Seller and Buyer must be prepared for delays  
 20 resulting from changes to the price, terms, and conditions agreed upon in the original transaction, responses from third-party creditors, as well as  
 21 other events outside of the Seller's and Buyer's control.

22 **4. BUYER DUE DILIGENCE CONTINGENCIES:** In Short Sale transactions, the deadlines for completion of buyer contingencies may need to be  
 23 suspended pending third-party creditor consent. However, if consent is slow and the Buyer wishes to proceed anyway, Buyers must understand  
 24 there is a risk they could expend their funds only to later learn the necessary creditor's consent to the Short Sale cannot be obtained. Normally,  
 25 buyers have no recourse for the recovery of these expenditures.

26 **5. ADDITIONAL OFFERS:** Since most third-party creditors will want to secure the highest and best offer for the property, they may insist it  
 27 remains on the market, notwithstanding a pending transaction. As a result, a creditor may withhold final consent until they have had an opportunity  
 28 to compare one offer with other potential offers that may come. In some Short Sales, a creditor may refuse to give consent to a pending transaction  
 29 because they want the Seller to accept another offer, or potential offer, with a better price or terms. As a result, the entire Short Sale process may  
 30 involve a significant risk of delay or failure.

31 **6. USE OF EXPERTS:** Short Sale transactions can be complicated and time-consuming. They raise important issues, especially for sellers,  
 32 including income tax implications, liability issues for unpaid mortgage indebtedness, credit rating issues, bankruptcy, and other legal issues, all of  
 33 which can affect the ultimate success of the transaction. Your real estate broker is not an expert in these areas. Buyers are strongly encouraged to  
 34 secure additional competent professional advice before entering a Short Sale transaction.

**ACKNOWLEDGMENT:** The undersigned acknowledge they have read and understand this Summary.

35 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
 36 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
 37 Buyer's Agent \_\_\_\_\_ Buyer's Agent's Firm \_\_\_\_\_